

### REMARKS

Prior to entry of this amendment, claims 1-31 are currently pending in the subject application. Claims 9-15 and 22-28 are withdrawn from consideration.

By the instant amendment, claims 1 and 17 are amended to include subject matter of claims 4, 5 and 7, and claims 18, 19 and 21, respectively. Claims 8 and 16 are amended to be in independent form, claims 6, 20, and 22 are amended to correct dependencies thereof, and claims 4, 5, 7, 18, 19, and 21 are cancelled. No new matter is added. Claims 1, 8, 16, and 17 are independent.

#### A. Introduction

In the outstanding Office Action Made Final:

- (a) claims 1 and 17 were objected to in that it is unclear how the pressure application unit and the light source and detector are always in the same vertical axis;
- (b) claims 1-5 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,154,667 to Miura et al. ("the Miura et al. reference") in view of U.S. Patent No. 4,580,574 to Gavish ("the Gavish reference");
- (c) claim 6 was rejected under 35 U.S.C. § 103(a) as being unpatentable over the Miura et al. and Gavish references and further in view of U.S. Patent No. 5,427,093 to Ogawa et al. ("the Ogawa et al. reference");
- (d) claims 17-20 and 29-31 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the Miura et al. reference in view of the Gavish reference and U.S. Patent No. 4,883,353 to Hausman et al. ("the Hausman et al. reference"); and
- (e) claims 7, 8, 16, and 21 were objected to as being dependent upon a rejected base claim, but were indicated as being allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### B. Objection to Claims 1 and 17

In the outstanding Office Action Made Final, claims 1 and 17 were objected to in that it is unclear how the pressure application unit and the light source and detector are always in the same vertical axis. Applicants respectfully submit that the claims 1 and 17 have been

amended to clarify allegedly unclear language. In view of the above, applicants respectfully request that the objection to claims 1 and 17 be favorably reconsidered and withdrawn.

C. Asserted Obviousness Rejection of Claims 1-5

In the outstanding Office Action Made Final, claims 1-5 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the Miura et al. reference in view of the Gavish reference. Applicants respectfully traverse this obviousness rejection for at least the following reasons.

Independent claim 1 has been amended to include limitations of claim 7, indicated as including allowable subject matter by the Examiner on page 4 of the Office action of May 13, 2008, and limitations of intervening claim 5. Accordingly, applicants submit that claim 1 is allowable over the cited prior art, and respectfully request that the rejection of claim 1 and claims dependent thereon be favorably reconsidered and withdrawn.

D. Asserted Obviousness Rejection of Claim 6

In the outstanding Office Action Made Final, claim 6 was rejected under 35 U.S.C. § 103(a) as being unpatentable over the Miura et al. reference and the Gavish reference and further in view of the Ogawa et al. reference. Applicants respectfully traverse this obviousness rejection at least because claim 6 is patentable by virtue of its dependency on claim 1. Applicants respectfully request that the rejection of claim 6 under 35 U.S.C. § 103(a) be favorably reconsidered and withdrawn.

E. Asserted Obviousness Rejection of Claims 17-20 and 29-31

In the outstanding Office Action Made Final, claims 17-20 and 29-31 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the Miura et al. reference in view of the Gavish and the Hausman et al. references. Applicants respectfully traverse this obviousness rejection for at least the following reasons.

Independent claim 17 has been amended to include limitations of claim 21, indicated as including allowable subject matter by the Examiner on page 4 of the Office action of May 13, 2008, and limitations of intervening claim 19. Accordingly, applicants submit that claim 1 is allowable over the cited prior art, and respectfully request that the rejection of claim 1 and claims dependent thereon be favorably reconsidered and withdrawn.

F. Allowable Subject Matter

Applicants note with appreciation the indication of allowable subject matter in claims 7, 8, 16, and 21. Applicants respectfully submit, however, that all of the claims are in condition for allowance.

G. Rejoinder of Withdrawn Claims

In the event claims 1 and 17 are found to be allowable, applicants respectfully request rejoinder of withdrawn claims 9-15 and 22-28, which depend directly or indirectly on independent claims 1 and 17.

H. Withdrawal of Finality of Outstanding Office Action

In the Amendment dated January 15, 2008, claims 1 and 17 were amended *solely* to clarify language therein to more clearly satisfy the written description requirement. It is respectfully submitted that the new grounds of rejection of the pending claims over the newly cited Miura et al. reference was not necessitated by the previous amendment. In particular, all the limitations recited in the previous amendment in arguing patentability of claims 1 and 17 were present in the original claims. It is respectfully requested that the Finality of the outstanding Office action be withdrawn.

I. Request Entry of Amendment

Absent withdrawal of the finality of the outstanding Office action, Applicants respectfully request that this amendment be entered at least because claims 1 and 17 are amended to clarify language therein and to include subject matter of claims 4, 5 and 7, and

claims 18, 19 and 21, respectively, which were examined previously, and claims 6, 20, and 22 are amended solely for language informalities. Therefore, applicants respectfully submit that consideration of these amendments does not impose an undue burden on the Examiner. Applicants further submit that the pending claims are in condition for allowance, and that the instant amendment overcomes the rejections set forth in the outstanding Office action. Accordingly, entry of the above amendment after final is respectfully solicited

J. Conclusion

The above remarks demonstrate the failings of the outstanding rejections, and are sufficient to overcome them. These remarks, however, are not intended to, nor need they, comprehensively address each and every reason for the patentability of the claimed subject matter over the applied prior art. Accordingly, applicants *do not* contend that the claims are patentable solely on the basis of the particular claim elements discussed above.

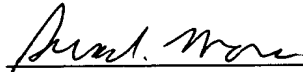
In view of the foregoing amendments and remarks, reconsideration of this application is earnestly solicited, and an early and favorable further action upon all the claims is hereby requested. Upon allowance, rejoinder of the withdrawn claims is respectfully requested.

If the Examiner believes that additional discussions or information might advance the prosecution of the instant application, the Examiner is invited to contact the undersigned at the telephone number listed below to expedite resolution of any outstanding issues.

Respectfully submitted,

LEE & MORSE, P.C.

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PETITION and  
DEPOSIT ACCOUNT CHARGE AUTHORIZATION

This document and any concurrently filed papers are believed to be timely. Should any extension of the term be required, applicant hereby petitions the Director for such extension and requests that any applicable petition fee be charged to Deposit Account No. 50-1645.

If fee payment is enclosed, this amount is believed to be correct. However, the Director is hereby authorized to charge any deficiency or credit any overpayment to Deposit Account No. 50-1645.

Any additional fee(s) necessary to effect the proper and timely filing of the accompanying-papers may also be charged to Deposit Account No. 50-1645.